

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )

Long-Term Telephone Number Portability )  
Tariff Filings )

Sprint Local Telephone Companies Tariff )  
F.C.C. No. 1, Transmittal Nos. 72, 73 )  
and 76 )

CC Docket No. 99-35

**COMMENTS ON PETITION FOR RECONSIDERATION**

Pursuant to Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, AT&T Corp. ("AT&T") hereby comments on Time Warner Telecom Holdings Inc.'s ("Time Warner") April 7, 1999 Petition for Reconsideration ("Petition") of the Bureau's Reconsideration Order.<sup>1</sup> AT&T agrees with Time Warner that, for the reasons stated in the Petition, the Bureau erred in permitting Sprint's Transmittal No. 76 to take effect without suspension on March 8, 1999, the same day that it was filed.

In its February 5, 1999 Suspension Order in the above-captioned proceeding, the Bureau suspended for one day and set for investigation Sprint's Transmittals Nos. 72 and 73, which sought to establish rates for local number portability ("LNP") surcharges and query

<sup>1</sup> Reconsideration of Decision to Suspend and Investigate Tariff Filings of Sprint Local Telephone Companies, Long-Term Number Portability Tariff Filings Of Sprint Local Telephone Companies, CC Docket No. 99-35, DA 99-475 (released March 8, 1999) ("Reconsideration Order").

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charges.<sup>2</sup> AT&T previously had timely filed a petition to suspend and investigate Sprint's tariffs, and the Suspension Order expressly ruled that, in addition to certain enumerated issues that raised substantial questions of lawfulness, "AT&T's petition to suspend and investigate Sprint's long-term number portability tariff raises questions of lawfulness, similar to those we identified, and further supports an investigation of this tariff."<sup>3</sup> The Suspension Order further held that:

The rate proposals and the issues raised in Sprint's tariff filing for long-term number portability are novel and complex. This is the first time Sprint has filed a tariff and supporting documentation for both query services and an end user charge. We are therefore unable at this time to limit our investigation to discrete rates or provisions of Sprint's number portability filing.<sup>4</sup>

Among the issues that AT&T raised in its January 29<sup>th</sup> petition to suspend or reject Sprint's LNP tariff was the fact that:

Sprint seeks to force other carriers to purchase utterly unnecessary LNP queries by tariffing an LNP query charge that would apply to every call delivered unqueried to an NXX in which LNP was available, without regard to whether even a single number had in fact been ported in that NXX.<sup>5</sup>

AT&T provided extensive support for its claims in the form of an Exhibit that collected the pleadings and ex parte filings that AT&T had previously filed with the Commission concerning this subject,<sup>6</sup> which the Commission had expressly designated as an issue to be considered in both

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<sup>2</sup> Memorandum Opinion and Order, Long-Term Number Portability Tariff Filings Of Sprint Local Telephone Companies, CC Docket No. 99-35, DA 99-298 (released February 5, 1999) ("Suspension Order").

<sup>3</sup> Id., ¶ 4.

<sup>4</sup> Id., ¶ 5.

<sup>5</sup> AT&T Corp., Petition To Reject Or Suspend Tariff, p. 5, filed January 29, 1999 in Long-Term Number Portability Tariff Filings, CC Docket No. 95-116.

<sup>6</sup> See id., Exhibit 1.

of the LNP tariff investigations that preceded the Suspension Order, but had not yet resolved. Sprint's reply to AT&T's Petition To Suspend further confirmed that Sprint intended to bill for "default" queries on calls to NXXs in which LNP was available, but no number had ported.<sup>7</sup>

On March 8, 1999, Sprint filed an amended LNP tariff, Transmittal No. 76. As Time Warner's Petition demonstrates, this tariff filing in no way modified Sprint's plans to charge for default queries for calls delivered to NXXs in which no number had ported.<sup>8</sup> On the same day that Sprint's tariff was filed, the Bureau released an order permitting it to take effect without permitting public comment of any kind.

The Bureau's decision to permit Sprint's revised LNP tariff to take effect without suspension was plainly in error. Just over one week before its March 8<sup>th</sup> Reconsideration Order, the Bureau released an Order Designating Issues For Investigation in its ongoing proceeding concerning the LNP tariffs filed by Ameritech, GTE, Pacific Bell and Southwestern Bell ("SWBT"). That order expressly designated as an issue for investigation whether it was reasonable for Pacific and SWBT to charge for default queries before the first number ports in an NXX.<sup>9</sup> Moreover, the Bureau held that the LNP Cost Classification Order required those ILECs to "explain why it is necessary to query each call to an NXX where a number has not been ported," and directed Pacific and SWBT to "explain the differences between their systems and

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<sup>7</sup> See Sprint, Reply To Petition To Reject Or Suspend, pp. 4-5, filed February 2, 1999 in Long-Term Number Portability Tariff Filings, CC Docket No. 95-116.

<sup>8</sup> See Petition, pp. 5-6.

<sup>9</sup> Order Designating Issues For Investigation, Long-Term Number Portability Tariff Filings, CC Docket No. 99-35 (released February 26, 1999), ¶ 46.

those of other LECs, such as Ameritech, that have not found it necessary to query all calls."<sup>10</sup> It is beyond cavil that Sprint's Transmittals 72, 73 and 76 failed to provide the information that the Bureau just ten days earlier had found was required by Commission's LNP orders.

In light of both (i) Sprint's failure to provide the support required by the Bureau's contemporaneous rulings concerning tariffs for the same services, and (ii) the patently unreasonable nature of the charges at issue, the Bureau should immediately institute an investigation into Sprint's LNP tariff. The Commission has previously ruled that Section 205 of the Communications Act authorizes the Bureau to initiate such an investigation, and to prescribe just and reasonable charges and practices in lieu of those now contained in Sprint's Transmittal No. 76.<sup>11</sup>

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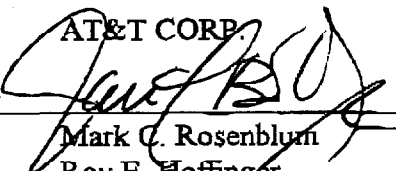
<sup>10</sup> Id. (citing Memorandum Opinion And Order, Telephone Number Portability Cost Classification Proceeding, CC Docket No. 95-116, RM 8535 (released December 14, 1998), ¶ 19).

<sup>11</sup> See 47 U.S.C. § 205 (Commission authorized to prescribe just and reasonable charges "on its own initiative"); Report and Order, Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996, CC Docket No. 96-187, FCC 97-23 (released January 31, 1997), ¶ 21 (ruling that Commission has the power under § 205 to prescribe rates for tariffs that were permitted to go into effect without suspension).

### CONCLUSION

For the reasons stated above, the Bureau should immediately initiate -- and promptly conclude -- a proceeding under 47 U.S.C. § 205 to prescribe just and reasonable charges and practices to replace those in Sprint's Transmittal No. 76 that now impose default query charges for calls delivered to NXXs in which no number has been ported.

Respectfully submitted,

AT&T CORP.  
By   
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Its Attorneys

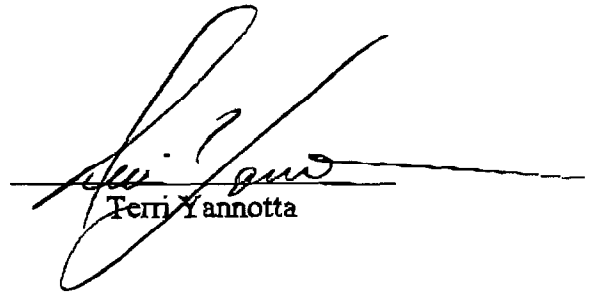
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April 21, 1999

**CERTIFICATE OF SERVICE**

I, Terri Yannotta, do hereby certify that on this 21<sup>st</sup> day of April, 1999, a copy of the foregoing "Comments On Petition For Reconsideration" was mailed by U.S. first class mail, postage prepaid, to the party listed below:

Tina Davis  
Time Warner Telecom  
5700 South Quebec Street  
Greenwood Village, CO 80111



Terri Yannotta

April 21, 1999